

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

DHD JESSAMINE, LLC,

Plaintiff,

v.

FLORENCE COUNTY, SOUTH CAROLINA;
FRANK J. BRAND; JASON SPRINGS;
ROGER M. POSTON; ALPHONSO
BRADLEY; JERRY W. YARBOROUGH;
STONE C. MOORE; WAYMON
MUMFORD; and WILLARD DORRIETY, JR.,
as the elected members of
the FLORENCE COUNTY COUNCIL; and
JOHN DOES 1-15,

Defendants.

Civil Action Number: 4:22-cv-01235-JD

EXHIBIT A

TO

**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER
ON BEHALF OF DEFENDANTS**

**DEPOSITION EXCERPT – SHAWN BRASHEAR
MARCH 1, 2023**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

DHD JESSAMINE, LLC,)	
)	
Plaintiff,)	
)	Case No.:
-versus-)	4:22-CV-01235-JD
)	
FLORENCE COUNTY, SOUTH CAROLINA;)	
FRANK J. BRAND; JASON SPRINGS;)	
ROGER M. POSTON; ALPHONSO)	
BRADLEY; JERRY W. YARBOROUGH;)	
STONEY C. MOORE; WAYMON MUMFORD;)	
and WILLARD DORRIETY, JR., as)	
the elected members of the)	
FLORENCE COUNTY COUNCIL; and)	
JOHN DOES 1-15,)	
)	
Defendants.)	

THE DEPOSITION OF SHAWN BRASHEAR was taken as a witness on behalf of the Plaintiff, pursuant to Federal Rules of Civil Procedure, at 10:30 a.m. on Wednesday, the 1st day of March, 2023, at the Florence County Complex, 180 North Irby Street, Florence, South Carolina, before Janice O. Darby, Registered Professional Reporter and Notary Public in and for the State of South Carolina.

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A P P E A R A N C E S

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BY: MR. J. TAYLOR POWELL

For the Defendants:

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1 ordinance prior to third reading by the county
2 administrator?

3 A No.

4 Q Were you directed to implement this
5 ordinance prior to third reading by anybody?

6 A I don't know that I can answer that
7 question.

8 Q Well, unless instructed not to by your
9 attorneys, I ask a question, and you've got to
10 provide an answer.

11 A That may have been a question I asked my
12 attorney.

13 Q Unless they instruct you not to answer in
14 this setting --

15 MR. DAVIDSON: Can we take a short
16 break and let us -- he and I talk about it and see
17 if there is something we need to take a privilege?

18 MR. POWELL: I don't think
19 you-all -- He doesn't get to talk with you and have
20 a privilege conversation.

21 MR. DAVIDSON: Yeah, he does.

22 MR. POWELL: No, sir, he doesn't.

23 MR. DAVIDSON: Yeah, he does.

24 MR. POWELL: Show me the rule that
25 says that. You don't get to have a privilege

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1 conversation with him once he's been sworn.

2 MR. DAVIDSON: I can ask him if
3 there's an area that's privileged, and I can ask him
4 about every document you're showing him today.

5 MR. POWELL: No, you cannot. These
6 are all documents you produced. You don't get to
7 have a conference.

8 MR. DAVIDSON: Under the rules, you
9 have to produce documents two days in advance.

10 MR. POWELL. That is a state court
11 rule. That is not a federal court rule.

12 MR. DAVIDSON: Let's talk about
13 this. I have the right to talk with him about
14 whether or not to assert a privilege.

15 MR. POWELL: If you would like to
16 instruct him not to answer, that is your right. You
17 do not have the right to have a privilege
18 conversation with him once he's been sworn.

19 MR. DAVIDSON: I think I do. But if
20 you want to play that way, that's fine. We'll play
21 that way. Don't answer the question.

22 MR. POWELL: What was that? I'm
23 sorry.

24 MR. DAVIDSON: Don't answer the
25 question. Privileged.

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1 MR. POWELL: What's the basis of the
2 privilege?

3 MR. DAVIDSON: Attorney-client
4 privilege, discussions with his attorney. He
5 indicated he was asking his attorney.

6 MR. POWELL: He did not indicate
7 that. He said he was not sure. I asked, Were you
8 directed to implement this ordinance prior to third
9 reading by anyone? And no answer was provided.

10 MR. DAVIDSON: There was an answer
11 provided.

12 MR. POWELL: Will you please read
13 back whether or not an answer was provided.

14 (Record read.)

15 MR. DAVIDSON: There you go. Thank
16 you.

17 BY MR. POWELL:

18 Q And so for the record, my question is,
19 were you directed to implement this ordinance prior
20 to third reading by anyone?

21 The court reporter indicated you
22 previously testified, That may have been a question
23 I asked my attorney.

24 My follow up, and I'll give your attorney
25 a chance to follow in, did Mr. McEachin instruct you

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1 to implement this ordinance prior to third reading?

2 MR. DAVIDSON: Objection. Instruct
3 the witness not to answer in regard to any matters
4 that were discussed between he and the county
5 attorney as attorney-client privilege. In other
6 words, don't answer.

7 BY MR. POWELL:

8 Q Did you direct your staff to implement
9 this ordinance prior to third reading?

10 A Yes.

11 Q Was that communicated in writing or at a
12 staff meeting, or do you know?

13 A I don't know.

14 Q Mr. Brashear, as part of your job as the
15 director of planning and building, do you review the
16 South Carolina and the Florence County vested rights
17 ordinances?

18 A From time to time.

19 Q Are you generally familiar with those?

20 A Generally. It's not something that comes
21 up often.

22 (Exhibit No. 26 marked for
23 identification.)

24 BY MR. POWELL:

25 Q Mr. Brashear, I'll represent to you what